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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/585,612	07/11/2006	Seiichiro Miyahara	DK-US065157	7976
22919 7590 05/13/2010 GLOBAL IP COUNSELORS, LLP 1233 20TH STREET, NW, SUITE 700 WASHINGTON, DC 20036-2680				
EXAMINER				
HENKEL, DANIELLE B				
ART UNIT		PAPER NUMBER		
1797				
MAIL DATE		DELIVERY MODE		
05/13/2010		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

**Advisory Action  
Before the Filing of an Appeal Brief**

**Application No.**

10/585,612

**Applicant(s)**

MIYAHARA, SEIICHIRO

**Examiner**

DANIELLE HENKEL

**Art Unit**

1797

**--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

THE REPLY FILED 30 April 2010 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.  
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.  
Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**NOTICE OF APPEAL**

2. ☐ The Notice of Appeal was filed on \_\_\_\_\_. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

**AMENDMENTS**

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because  
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);  
(b) ☐ They raise the issue of new matter (see NOTE below);  
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or  
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).  
5. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.  
6. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).  
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.  
The status of the claim(s) is (or will be) as follows:  
Claim(s) allowed: \_\_\_\_\_.  
Claim(s) objected to: \_\_\_\_\_.  
Claim(s) rejected: 5-14.  
Claim(s) withdrawn from consideration: \_\_\_\_\_.

**AFFIDAVIT OR OTHER EVIDENCE**

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).  
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).  
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

**REQUEST FOR RECONSIDERATION/OTHER**

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:  
See Continuation Sheet.  
12. ☒ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). 2/22/10  
13. ☐ Other: \_\_\_\_\_.

/DANIELLE HENKEL/  
Examiner, Art Unit 1797

/William H. Beisner/  
Primary Examiner, Art Unit 1797

Continuation of 11, does NOT place the application in condition for allowance because: The amendments to claims 5 and 9 do not put the application in better form or render it allowable. The amendments to claims 1 and 9 consist of adding the language of previous claim 1 to each claim. The previous rejection of claims 5 and 9 would be modified to include the previous rejection of claim 1 to address the added features of the independent. Specifically, the Examiner maintains that ATWOOD discloses the plurality of tubes (compartments) (0095, 0098), heater and cooling unit (0099-100, 0107-8), thermometer (0110), storage unit (0096), and control and calculation units (0110, 0202) as addressed in the Final Office Action rejections of claims 1 and 5. In response to Applicant's argument, page 10-11, that ATWOOD does not disclose an ambient temperature of an environment in which the device is installed has been considered, but is not persuasive. ATWOOD discloses sensing the ambient temperature within a housing around the system (0110), in which the housing is the environment where the above mentioned temperature control device is installed. In response to Applicant's argument page 11, that ATWOOD does not disclose obtaining or calculating a second target value based on the target value and calibration data with the ambient temperature has been considered, but is not persuasive. The examiner maintains ATWOOD discloses programming (setting) a target temperature (value) for the samples and managing (controlling) the sample block (heating and cooling units) to get the samples to the specified temperature (control of temperatures inside compartments) (0202). Additionally ATWOOD further discloses it is the sample target temperature that is user input and not the sample block temperature (0202) and that the power and temperature of the sample block (second target value) is obtained/calculated according to a control algorithm (0195) by taking into account the user-defined temperature (target temperature), temperature sensor values (0312) including the ambient temperature (0110, 0029), and calibration data (0096, 0323).